

§ 17.150

IRS TAX REFUND OFFSET PROVISIONS

SOURCE: Sections 17.150 through 17.161 appear at 51 FR 39750, Oct. 31, 1986, unless otherwise noted.

§ 17.150 Scope.

(a) The standards set forth in §§ 17.150 through 17.161 are the Department's procedures for requesting the Internal Revenue Service (IRS) to offset tax refunds due taxpayers who have a past-due debt obligation to the Department. These procedures are authorized by the Deficit Reduction Act of 1984 (31 U.S.C. 3720A) and apply to the collection of debts as authorized by common law, by 31 U.S.C. 3716, or under other statutory authority.

(b) The Secretary will use the IRS tax refund offset to collect claims which are certain in amount, past due and legally enforceable, and which are eligible for tax refund offset under regulations issued by the Secretary of the Treasury.

(c) The Secretary will not report debts to the IRS except for the purpose of using the offset procedures described in §§ 17.150 through 17.161. Debts of less than \$100.00, exclusive of interest and other charges, will not be reported.

(d) If not legally enforceable because of lapse of statute of limitations but otherwise valid, the debt will be reported to the IRS as a forgiven debt on Form 1099G. (Form 1099G is an information return which Government agencies file with the IRS to report forgiven debt, and the forgiven amount is considered income to the taxpayer.) (See § 17.159.)

§ 17.151 Notice requirements before offset.

A request for deduction from an IRS tax refund will be made only after the Secretary makes a determination that an amount is owed and past due and provides the debtor with 65 calendar days written notice. This Notice of Intent to Collect by IRS Tax Refund Offset (Notice of Intent) will state:

(a) The nature and amount of the debt;

(b) That unless the debt is repaid within 65 days from the date of the Notice, the Secretary intends to collect the debt by requesting the IRS to re-

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duce any amounts payable to the debtor as refunds of Federal taxes paid by amount equal to the amount of the debt and all accumulated interest and other charges;

(c) That the debtor has a right to obtain review within the Department of the Secretary's initial determination that the debt is past due and legally enforceable (see § 17.152);

(d) That the debtor has a right to inspect and copy departmental records related to the debt as determined by the Secretary and will be informed as to where and when the inspection and copying can be done after the Department receives notice from the debtor that inspection and copying are requested. (See § 17.155.)

§ 17.152 Review within the Department of a determination that an amount is past-due and legally enforceable.

(a) *Notification by debtor.* A debtor who receives a Notice of Intent has the right to present evidence that all or part of the debt is not past-due or not legally enforceable. The debtor should send a copy of the Notice of Intent with a letter notifying the HUD Board of Contract Appeals within 25 calendar days from the date of the Department's Notice of Intent that he or she intends to present evidence. (See § 17.161(a) for address of the Board.) Failure to give this advance notice will not jeopardize the debtor's right to present evidence within the 65 days provided for in paragraph (b) of this section. If the HUD Board of Contract Appeals has additional procedures governing the review process, a copy of the procedures will be mailed to the debtor after his request for review is received and docketed by the Board.

(b) *Submission of evidence.* The debtor may submit evidence showing that all or part of the debt is not past-due or not legally enforceable along with the notification requested by paragraph (a) of this section, but in any event the evidence must be submitted to the Board of Contract Appeals within 65 calendar days from the date of the Department's Notice of Intent. Failure to submit evidence within 65 calendar